

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Raiquan Falls,

Plaintiff,

ORDER

-against-

17 Civ. 35 (AEK)

Sergeant E. Campbell, et al.,

Defendants.

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THE HONORABLE ANDREW E. KRAUSE, U.S.M.J.

This case was reassigned to the undersigned on October 15, 2020, following the retirement of Judge Lisa Margaret Smith on September 30, 2020. During the final status conference held by Judge Smith on September 23, 2020, because the Court was informed that Plaintiff was due to be released from prison on October 15, 2020, the Court directed Plaintiff to provide the Court with his updated contact information upon his release. See Docket Sheet, Minute Entry for 09/23/2020. It was the Court's understanding at that time that Defendants' counsel planned to depose Plaintiff, as well as have Plaintiff undergo an independent medical examination ("IME") following his release, and therefore it was essential that Plaintiff keep both the Court and Defendants' counsel informed of his new contact information. Nonetheless, it is clear from the docket that Plaintiff has failed to provide updated contact information to the Court, and Defendants' counsel has informed the Court that she also does not have current contact information for Plaintiff. See ECF No. 130 (letter from Defendants' counsel, attached hereto). Defendants' counsel has also informed that Court that Plaintiff also did not appear for either his deposition, which had been scheduled for November 5, 2020, or his IME, which had been scheduled for November 17, 2020; Plaintiff had previously received notice of these dates,

and confirmed that he had received such notice during the September 23, 2020 telephone conference. See ECF No. 130.

The Court has undertaken efforts to identify Plaintiff's new address. By no later than **December 22, 2020**, Plaintiff must: (1) contact Defendants' counsel by telephone at 845-291-3150 to reschedule his deposition and IME; and (2) provide both Defendants' counsel and the Court with his updated contact information. The deadline for Plaintiff's deposition and IME is hereby extended by 60 days, from December 4, 2020, to February 2, 2021. Defendants' counsel is directed to submit a letter via ECF on or before December 23, 2020 to advise the Court as to whether Plaintiff has contacted her and the dates for the rescheduled deposition and IME.

Once again, the Court instructs Plaintiff that it is his responsibility to keep the Court informed of his latest contact information and that any failure to do so might result in the Court dismissing his case for failure to prosecute.

The Clerk of the Court is directed to mail a copy of this Order to Plaintiff at 11 Liberty Street, Newburgh, New York 12550. If this is, in fact, the proper address for Plaintiff, Plaintiff must take the necessary steps to update his address on file with the Court.

Dated: December 1, 2020
White Plains, New York

SO ORDERED.



ANDREW E. KRAUSE
United States Magistrate Judge



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County Executive

Orange County
COUNTY ATTORNEY

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November 18, 2020

By ECF

Honorable Andrew E. Krause
United States Magistrate Judge
United States Courthouse
300 Quarropas Street, Chambers 533
White Plains, NY 10601-4150

Re: Falls (v) Sergeant E. Campbell, et al.
Case No.: 17-CV-35 (KMK)(LMS)

Dear Judge Krause:

We represent the defendants in the above-referenced matter. Pursuant to the order of the Hon. Lisa M. Smith, issued during a telephone conference held on August 6, 2020, plaintiff's medical examination and deposition were to be completed by December 4, 2020. On September 2, 2020, I mailed both a notice of deposition and demand for medical examination to plaintiff at Wende Correctional Facility. During a telephone conference with the court held on September 23, 2020, plaintiff acknowledged receipt of those documents. As plaintiff was due to be released from NYSDOCCS on October 15, 2020, I scheduled his deposition for November 5 and his medical examination for November 17. During the call, I advised plaintiff to contact me directly if he needed to reschedule either of those dates.

Plaintiff failed to appear for his deposition on November 5, 2020. He did not contact me prior to the deposition to indicate that he had any difficulties in appearing nor has he contacted me since. My colleague took his default on the record on November 5, 2020. Likewise, plaintiff failed to appear for his medical examination on November 17, 2020. He did not contact the doctor's office to reschedule nor has he contacted this office regarding his failure to appear. In addition, he has failed to update his address with the Court, although Judge Smith specifically instructed him to do so. As such, I currently have no contact information for him and am therefore unable to make arrangements to reschedule the deposition and medical examination.

As noted above, the current discovery deadline is December 4, 2020. Based on the foregoing, I am respectfully seeking the court's guidance as to how to proceed.

Thank you for your attention to this matter.

Respectfully submitted,

Kellie E. Lagitch

KELLIE E. LAGITCH

Senior Assistant County Attorney

KEL/ag

cc: Raiquan Falls (by regular mail)